

Chapter 17.126

FOOD CART POD PERMIT

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17.126.010 Purpose. Mobile food units, which are defined in OAR 333-150-0000 as "any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer", can provide opportunities to enliven under-utilized parking lots, allow individual entrepreneurship at a small scale, and provide unique eating establishments for the public. The purpose of this chapter is to set standards to permit mobile food units, or "food carts" on a long-term basis. As with temporary uses, permanent site improvements may not be required; however, the standards and permit processes of this section are intended to ensure that food carts are conducted as lawful uses and in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents. (Ord. 877, 2019)

17.126.020 Applicability and Exemptions. A. Applicability.

1. This chapter is not applicable to temporary uses which are permitted through the Temporary Use Permit procedures of Chapter 17.128.

2. For the purposes of this chapter, the term "food cart" will be used interchangeably with "mobile food unit". "Food cart pod" refers to a site containing one or more food carts and associated amenities on private property.

3. The provisions of this chapter apply to all food carts within the City, whether it is a single food cart, or multiple carts in a pod.

4. Food carts are not permitted to travel to different sites throughout the City and shall only be allowed through an approved permit issued in conformance with this chapter.

B. Exemptions. The following are exempt from the provisions of this chapter:

1. Locations where food carts are stored when not in operation are exempt from the provisions of this section; however, the storage of commercial vehicles or trailers may be subject to other requirements of the Scappoose Municipal Code.

2. Food carts that are operated as part of an approved farmer's market or allowed under a special event permit are exempt. (Ord. 877, 2019)

17.126.030 Permit Procedures. Food cart pod permits will be processed in accordance

with Chapter 17.162, as follows:

A. Type I. Up to two carts on one site with no accessory structures other than trash cans and portable accessory items, such as picnic tables, may be reviewed for compliance with this chapter and administratively approved by the Planner.

1. The Planner shall make findings of fact based on evidence provided by the applicant demonstrating that all of the applicable criteria for food cart pods and individual food carts has been satisfied.

B. Type II. Three or more carts on one site and/or accessory structures constructed in accordance with 17.126.040(B) may be reviewed in accordance with this chapter, and applicable chapters of the Scappoose Municipal Code and the Planning Commission shall be the approval body.

1. The Planning Commission shall approve, approve with conditions, or deny an application for a Type II Food Cart Pod Permit. The decision to approve, approve with conditions, or deny an application for a Type II Food Cart Pod Permit shall be made by the Planning Commission upon findings of whether or not the proposed use:

a. Is in conformance with the standards contained in this chapter and any other applicable chapters, and

b. Is undertaken in a manner that is not detrimental nor disruptive in terms of appearance or operation to neighboring properties, businesses and/or residents. (Ord. 877, 2019)

17.126.040 Food Cart Pod Standards. A property containing one or more food carts shall be maintained in a clean and orderly condition. Only those things authorized by the permit and shown on the site plan may be stored on the property. The following standards apply to food cart pod sites:

A. Zoning. Food cart pods are not permitted in special flood hazard areas or in residential zones but are permitted in zones that allow for eating and drinking establishments either outright or through conditional use approval. In the Light Industrial, LI and Public Use Airport, PUA zoning districts, Food Cart Pod Permit approval is subject to Chapter 17.130 - Conditional Use.

B. Accessory Items and Structures. Trash and recycling receptacles for customer use shall be maintained no more than ten (10) feet from food carts, at a rate of one trash and one recycling receptacle for every two food carts. Portable accessory items, such as picnic tables, are permitted. With Planning Commission approval, new accessory structures may be constructed, as follows:

1. A maximum of two restroom structures, provided that the combined square footage does not exceed two hundred (200);

2. A maximum of two storage buildings, provided that the combined square footage does not exceed two hundred (200);

3. One trash enclosure;

4. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g., decks, picnic shelters, pavilions), provided that the square footage does not exceed two hundred (200) square feet per food cart and that no single structure exceeds two thousand (2000) square feet. Any covered structure provided shall meet current Oregon Structural Specialty Code and be permanently attached to the ground;

5. A food cart pod site with 3 or more food carts shall provide covered seating and restrooms on site.

C. Signs. Type I approval: Signs are restricted to portable signs only, permitted pursuant to Chapter 17.114. Type II approval: Signs are permitted pursuant to Chapter 17.114. Signage painted on food carts is permitted.

D. Minimum Setbacks and Separation Distance. All food carts on the site shall be located a minimum of:

1. Five (5) feet from any structure or other food cart;

2. Ten (10) feet from any front lot line; and

3. Five (5) feet from any interior side or rear lot line, except if such lot line abuts a street the setback shall be ten (10) feet and if such lot line abuts a residential district the minimum setback shall be twenty (20) feet. In the downtown overlay, Chapter 17.80 governs required setbacks, however, the provisions of section E (Screening) still apply.

4. Awnings and canopies may encroach into the required setback not more than 36-inches, provided that the width of the setback is not reduced to less than three (3) feet.

E. Screening. If the food cart pod is located less than twenty (20) feet from a residential zoning district, the residential property shall be screened from the food cart pod, which may be a portion of a property including the food cart, seating, queuing, etc., abutting the residential zoning district and may not necessarily extend to the shared property line.

Required screening:

1. May be provided by an existing, continuous, sight-obscuring structure, solid fence, or hedge;

2. If new, shall be a continuous, sight-obscuring vegetative screen; or if fencing is utilized as screening, shall be continuous, sight-obscuring fencing made of wood or ornate metal. Chain-link fencing with slats shall not qualify as acceptable screening material; and

3. Shall have a minimum height of six (6) feet.

F. Setback from Vehicular and Pedestrian Use Areas. Windows and doors used for service to customers shall be located a minimum of ten (10) feet from loading areas, driveways, on-site circulation drives, and parking lot aisles, and a minimum of five (5) feet from bicycle parking spaces and walkways.

G. Obstruction of Vehicular and Pedestrian Use Areas and Landscape Areas. No food cart or associated element, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, or walkways. Food carts and amenities shall not occupy landscaping areas approved as part of a prior design review or other land use application. However, occupying existing on-site automobile parking spaces is permitted, provided that such spaces are not simultaneously used for parking or required to meet minimum parking requirements on the site.

H. Surfacing. All food carts shall be placed on a hard-surfaced area such as concrete or asphalt, and any associated parking, loading, and maneuvering areas for vehicles shall be on hard-surfaced areas. If new paved surface is added to a site to accommodate a cart, the parking area shall comply with applicable parking design standards contained in Chapter 17.106.

I. Driveway Access. No new or modified driveway access is permitted, unless approved by the City Engineer, in accordance with this Chapter and other applicable sections of the Scappoose Municipal Code and the Public Works Design Standards.

J. Intersection Sight Distance and Visual Clearance Areas. The food cart and any attachments, accessory items, or customer queuing areas shall comply with the intersection sight distance and visual clearance area requirements of the Scappoose Municipal Code Chapter 12.10 and Public Works Design Standards.

K. Lighting. Outdoor lighting shall be required to maintain safety and for crime prevention, to be approved by the Chief of Police, if not already adequately provided by an existing use. All lighting on site shall be shielded so that it does not become a nuisance to neighboring properties.

L. Utilities. To the extent that utilities are desired by the applicant or required by applicable regulations, food carts shall have self-contained utilities, or if on-site utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company.

M. Sanitation Facilities. Food cart pods shall ensure the availability of a restroom with hand washing facilities meeting the provisions of OAR 333-150-0000 for employees and customers. Portable restrooms and portable handwashing facilities are not permitted, unless the portable handwashing facilities provide hot running water meeting the provisions of OAR 333-150-0000. If portable restrooms and portable handwashing facilities are provided, they shall be screened from view with fencing or a solid vegetative screen, or a combination of the two, provided that the portable facilities are not visible from neighboring properties or public rights-of-way. The restrooms must either be on-site, within one-quarter mile or within 5 minutes walking distance and be available during the carts' hours of operation. Applicants shall provide the City with documentation that restrooms are available via the owners written permission for the utilization of facilities in an existing building.

N. Sewage Disposal. Subsurface sewage disposal is prohibited.

O. Vendor Parking. For any food cart pod requiring approval by the Planning Commission, vendor parking shall be provided in addition to the off-street parking requirements of Chapter 17.106 (Off-Street Parking and Loading Requirements) at the rate of one parking stall per food cart. Vendor parking may be satisfied by the provision of off-site shared parking agreements, when the off-site parking space used is surplus parking and not required parking for an existing use.

P. Landscaping. Type II food cart pod permits are subject to Chapter 17.100 - Landscaping, Screening and Fencing. A portion of the landscaping required may be provided with attractive potted planters, provided they contribute to the aesthetics of the pod, provide effective screening, and are well maintained year-round.

Q. Noise. Any noise generated on site is subject to Municipal Code Section 9.12.040 - Offenses Related to Noise. (Ord. 877, 2019)

17.126.050 Food Cart Standards. The following standards apply to each food cart on the site.

A. Attachments. Attachments to the food cart, such as awnings or canopies, are permitted only if they are supported entirely by the cart and do not touch the ground. Neither the food cart nor any item relating to the cart shall lean against or hang from any structure or utility pole. No structure shall be attached to the food cart.

B. Accessory Storage. Except as specifically allowed by 17.126.040(B), items relating to the food cart shall be stored in, on, or under the cart in an orderly manner, or out of sight.

C. Interior Seating or Vending. Customer seating or vending inside a food cart is prohibited.

D. Length of cart. Food carts shall not exceed 26 feet in length.

E. Carts and their accessory items shall be kept in good repair and be maintained in a safe and clean condition.

F. The following health and sanitation standards shall apply:

1. Applicants shall provide wastewater/graywater disposal documentation that indicates how the outputs will be stored (if applicable) and what wastewater/graywater disposal method will be used. The documentation shall indicate a proper disposal method that ensures fats, oils and grease do not enter the City's wastewater infrastructure. If the applicant intends to contract with a third party for wastewater/graywater disposal, a copy of the contract must be provided to the City within 15 days of receiving a permit.

2. Non-stormwater discharges to the City's stormwater system are prohibited.

G. Drive-Thru Service. Food carts shall not provide drive-thru service.

H. Other Licenses/Approvals Required. Besides meeting the requirements of this chapter, the operator of a food cart must have an active City business license, must comply with the current edition of the International Fire Code (I.F.C.) for Mobile Food Carts and receive an annual Fire District inspection and approval, and must receive approval and comply with the permit requirements of Columbia County Environmental Health Department. (Ord. 877, 2019)

17.126.060 Food Cart Pod Modification. An application for a food cart pod modification shall be required when any of the following thresholds apply:

A. Thresholds.

1. Modification to an approved food cart pod site layout or design, which does not increase the number of food carts permitted on the site.

2. Addition of non-permanent amenities to an approved food cart pod, such as but not limited to: picnic tables, awnings and landscaping.

B. Procedure Type.

1. The Type 1 procedure, as described in section 17.126.030(A) of this chapter shall apply to an application for a Food Cart Pod Modification when the thresholds above are met.

2. In the event that a modification exceeds the above thresholds, a new Type II Food Cart Pod Permit shall be applied for. (Ord. 877, 2019)

17.126.070 Submittal Requirements. An application for a Food Cart Pod Permit shall include the following:

A. A completed application, including the property owners' signature, on a form provided by the Planning Department; and

B. Information sufficient to address the standards in 17.126.040; and

C. A site plan of the subject property drawn to scale and including:

1. The lot lines,
2. The location of existing structures,
3. The proposed boundaries of the food cart pod. Within the boundaries of the food cart pod, the location of all food carts, seating areas, and any accessory items or structures,
4. The proposed distance between the food cart pod and adjacent lot lines, as well as the proposed separation distance between individual carts and between carts and other on-site structures,
5. The type and location of any proposed on-site utility connections for food carts,
6. Number and location of food carts on site and individual square footage and length of each cart,
7. Pictures or architectural elevations of proposed food cart(s),
8. The location of existing and proposed loading areas, driveways, on-site circulation drives, parking lots aisles, parking lot lighting, bicycle and automobile parking spaces, and walkways,
9. The orientation of service windows and doors on the food carts and location of customer queuing areas,
10. The location of existing and proposed landscaping,
11. The dimension, height, and location of proposed signs,
12. Proof of the availability of restroom facilities for employees and customers that meet the requirements of OAR Chapter 333-150-0000,
13. The method for disposing of wastewater and gray water,
14. Written verification of approval by Columbia County Health Department,
15. Written verification of approval by Scappoose Fire District,
16. Traffic generation memo, meeting the requirements specified in SDC 17.154.030(S),
17. A statement indicating any source of noise to be generated on the property and the method of mitigating the noise, and
18. Any additional information that may be required by the Planning Department to properly evaluate the proposed site plan.

(Ord. 877, 2019)

17.126.080 Conditions of Approval. The approval body may impose conditions upon the approval of a Food Cart Pod Permit to ensure compliance with the requirements of this chapter, and other applicable chapters of the development code, and to minimize adverse impacts created by the use on surrounding property and uses. These conditions may include, but are not limited to, the following:

- A. Limiting the hours, days, place and manner of operation;
- B. Requiring site and building design features which minimize environmental impacts such as noise, glare, and odor;
- C. Requiring additional building setbacks;
- D. Further limiting the building area and outdoor storage used by the food cart pod and restricting the location of the use on the site in relationship to adjoining uses;
- E. Designating the size, number, location and design of vehicle access points;
- F. Requiring landscaping, buffering and/or screening, of the food cart pod from adjoining uses and establishing standards for the continued maintenance of these improvements;
- G. Requiring storm drainage improvements, and surfacing of parking and loading areas;
- H. Limiting or setting standards for the location and intensity of outdoor lighting;
- I. Requiring and designating the size, height and location of fences and materials used for their construction;
- J. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;
- K. Limiting the type and number of vehicles or equipment to be parked or stored on the site;
- L. Any other limitations which the approval authority considers to be necessary or desirable to make the use comply with this section; and
- M. Any limitations or conditions imposed by the City's service providers or the Fire Department. (Ord. 877, 2019)

17.126.090 Approval Period.

A. Type I: A Type I Food Cart Pod Permit approval is valid for two years from the date of the final written decision, provided the approval is implemented within a one-year period. If not implemented within a one-year period, the approval will become void. At the end of any two-year period, the applicant may apply for another two-year permit by filing a new Type I or Type II application, as applicable.

B. Type II: A Type II Food Cart Pod Permit approval does not expire, provided the approval is implemented within a one-year period. If not implemented within a one-year period, the approval will become void.

C. "Implemented" means all necessary development permits shall be obtained and maintained for the approved development. (Ord. 877, 2019)

17.126.120 Grounds for Revocation. The Planner or designee may:

A. Revoke a Food Cart Pod Permit approval if the conditions of approval have not been or are not being complied with and the food cart pod is being conducted in a manner contrary to this chapter.

B. The Planner or designee shall approve the use as it exists, revoke the Food Cart Pod Permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section after reviewing a complaint. Complaints may be originated by the City of Scappoose or the public. Complaints from the public shall clearly state the objection to the food cart pod, such as:

1. Generation of excessive traffic;
2. Generation of excessive noise or litter;
3. Other offensive activities not compatible with the surrounding area.

C. Waiting Period for Reapplication. When a Food Cart Pod Permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a food cart pod on the subject parcel will be considered.

D. The Food Cart Pod Permit owner may appeal the Planner's decision to the Planning Commission. (Ord. 877, 2019)